



**TO THE UNITED STATES BANKRUPTCY COURT, UNITED  
STATES TRUSTEE, DEBTOR, 20 LARGEST UNSECURED CREDITORS,  
AND ALL PARTIES IN INTEREST:**

NOTICE IS HEREBY GIVEN that a hearing on Creditor Kenny Kwong's ("Movant") Motion for In Rem Relief from Automatic Stay pursuant to 11 U.S.C. § 362(d)(4) (the "Motion") will be heard on May 12, 2020 in the above-captioned Court at the above-captioned time. In summary, Movant seeks an order from the Court granting relief from stay as to the property commonly known as 9 La Noria, Orinda, California 94563 (APN 262-141-014) (the "Property"). The legal description of the Property is:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF ORINDA, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

**PARCEL ONE:**

PORTION OF LOTS 368, 369 AND 370, AS SHOWN ON THE MAP OF UNIT NO. 3, HACIENDAS DEL ORINDA, FILED FEBRUARY 16, 1925, MAP BOOK 19, PAGE 473, CONTRA COSTA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE CENTER LINE OF THE ROAD KNOWN AS LA NORIA, LOCATED THEREON NORTH 61° 20' EAST DISTANT 79 FEET FROM THE MOST SOUTHERLY CORNER OF LOT 370, AS THE SAID ROAD AND LOT ARE SHOWN ON SAID MAP (19 M 473), AND RUNNING THENCE FROM SAID POINT OF COMMENCEMENT ALONG THE CENTER LINE OF THE SAID LA NORIA, THE FOLLOWING COURSES AND DISTANCES: NORTH 61° 20' EAST, 26 FEET, AND NORTHEASTERLY AND TANGENT TO THE LAST MENTIONED COURSE ALONG THE ARC OF A CIRCLE TO THE RIGHT, WITH A RADIUS OF 194 FEET, A DISTANCE OF 49 FEET; THENCE LEAVING THE CENTER LINE OF THE SAID LA NORIA AND RUNNING NORTH 24° 31' 40" WEST, 173.1 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF A CIRCLE TO THE RIGHT, WITH A RADIUS OF 103 FEET, A DISTANCE OF 5.02 FEET, THE LONG CHORD OF WHICH BEARS SOUTH 54° 00' 12" WEST; THENCE SOUTHWESTERLY ALONG THE ARC OF A COMPOUND CIRCLE TO THE RIGHT, WITH A RADIUS OF 295 FEET, A DISTANCE OF 69.98 FEET, THE LONG CHORD OF WHICH BEARS SOUTH 62° 11' 45" WEST; THENCE SOUTH 24° 29' 20" EAST, 167.35 FEET TO THE POINT OF COMMENCEMENT.

**PARCEL TWO:**

PORTION OF LOTS 367, 368 AND 370, AS SHOWN ON THE MAP OF UNIT NO. 3, HACIENDAS DEL ORINDA, FILED FEBRUARY 16, 1925, MAP BOOK 19, PAGE 473, CONTRA COSTA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A POINT

1 ON THE CENTER LINE OF THE ROAD KNOWN AS LA NORIA, AT THE  
2 MOST SOUTHERLY CORNER OF LOT 370, AS THE SAID ROAD AND LOT  
3 ARE SHOWN ON SAID MAP (19 M 473), AND RUNNING THENCE FROM  
4 SAID POINT OF COMMENCEMENT, ALONG THE CENTER OF THE SAID LA  
5 NORIA, NORTH 61° 20' EAST, 79 FEET; THENCE LEAVING THE CENTER  
6 LINE OF THE SAID LA NORIA, AND RUNNING NORTH 24° 29' 20" WEST,  
7 167.35 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF A CIRCLE  
8 TO THE RIGHT, WITH A RADIUS OF 295 FEET, A DISTANCE OF 73.65 FEET,  
9 THE LONG CHORD OF WHICH BEARS SOUTH 76° 08' 37" WEST, TO A  
10 POINT ON THE NORTHERLY PRODUCTION OF THE WESTERLY  
11 BOUNDARY LINE OF THE SAID LOT 370; THENCE RUNNING ALONG THE  
12 NORTHERLY PRODUCTION OF THE SAID WESTERLY BOUNDARY LINE  
13 AND CONTINUING ALONG THE SAID WESTERLY BOUNDARY LINE  
14 SOUTH 22° 28' 05" EAST, 186.77 FEET TO THE POINT OF COMMENCEMENT.

15 **PARCEL THREE:**

16 RIGHT OF WAY CREATED IN REFERENCE TO PARCELS ONE AND TWO  
17 ABOVE IN THE DEED FROM NILS O. EKLUND, JR., ET AL, TO WILLIAM  
18 EDWARD KILGO, ET UX, RECORDED JUNE 3, 1959 IN BOOK 3385 OF  
19 OFFICIAL RECORDS, PAGE 489, AS FOLLOWS: "A RIGHT OF WAY (NOT TO  
20 BE EXCLUSIVE) FOR USE AS A ROADWAY FOR VEHICLES OF ALL KINDS,  
21 PEDESTRIANS AND ANIMALS, FOR WATER, GAS, OIL AND SEWER PIPE  
22 LINES AND FOR TELEPHONE, TELEVISION SERVICE, ELECTRIC LIGHT  
23 AND POWER LINES, TOGETHER WITH THE NECESSARY POLES OR  
24 CONDUITS OVER A PORTION OF LOTS 367 AND 368, AS DESIGNATED ON  
25 THE MAP ENTITLED 'UNIT NO. 3, HACIENDAS DEL ORINDA, CONTRA  
26 COSTA COUNTY, CALIFORNIA', WHICH MAP WAS FILED IN THE OFFICE  
27 OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF  
28 CALIFORNIA, ON FEBRUARY 16, 1925 IN VOLUME 19 OF MAPS, AT PAGE  
473, BEING OVER A STRIP OF LAND DESCRIBED AS FOLLOWS:  
"BEGINNING AT THE NORTHWEST CORNER OF LOT 370, AS DESIGNATED  
ON SAID MAP (19 MAPS 473); THENCE FROM SAID POINT OF BEGINNING  
NORTH 87° 49' 50" EAST ALONG THE NORTH LINE OF SAID LOT 370, 34.51  
FEET; THENCE NORTH 67° 43' 30" EAST, 63.5 FEET; THENCE NORTH 58° 47'  
EAST, 26.65 FEET; THENCE NORTH 53° 42' EAST, 31.6 FEET; THENCE  
NORTH 38° 57' 40" EAST, 58.75 FEET TO THE SOUTHWEST LINE OF A  
COUNTY ROAD KNOWN AS LA SENDA; THENCE ALONG SAID  
SOUTHWEST LINE WESTERLY ALONG THE ARC OF A CURVE TO THE  
LEFT WITH A RADIUS OF 140 FEET, THE CENTER OF WHICH BEARS  
SOUTH 26° 17' 08" WEST, AN ARC DISTANCE OF 14.87 FEET TO A POINT  
FROM WHICH THE CENTER OF A REVERSE CURVE TO THE RIGHT WITH  
A RADIUS OF 175 FEET BEARS NORTH 20° 12' EAST; THENCE  
NORTHWESTERLY ALONG SAID CURVE TO THE RIGHT WITH A RADIUS  
OF 175 FEET, AN ARC DISTANCE OF 8.13 FEET TO A POINT FROM WHICH  
THE CENTER OF SAID CURVE BEARS NORTH 22° 51' 47" EAST; THENCE  
SOUTH 36° 43' WEST, 50.12 FEET; THENCE SOUTH 53° 42' WEST, 27.72  
FEET; THENCE SOUTH 58° 47' WEST, 24.2 FEET; THENCE SOUTH 67° 43' 30"  
WEST, 33.90 FEET; THENCE NORTH 84° 11' 24" WEST, 29.83 FEET; THENCE  
SOUTHWESTERLY IN A DIRECT LINE TO THE POINT OF BEGINNING"

1  
2 Rosalind L. Smith and Andre Scott (“Mr. Scott”), as manager of Eurisko  
3 Development LLC, a Nevada limited liability company (“Eurisko”), engaged in an  
4 improper transfer of a 5% interest in the Property to Rosalind Smith on the eve of a  
5 scheduled foreclosure sale. The day following the transfer, Rosalind Smith filed a  
6 Chapter 13 to stay the foreclosure. *In re Rosalind Smith*, USBC EDC 19-27600.  
7 This transfer was done without the consent of Movant, a secured creditor holding a  
8 second note and deed of trust on the Property, and such transfer was done with actual  
9 intent to hinder, delay or defraud the Movant. The Hon. Robert S. Bardwil already  
10 granted Movant relief from stay under 11 U.S.C. § 362(d)(1) for cause for this  
11 abusive scheme that harmed Movant. On the eve of the effective date of the order  
12 granting Movant’s prior motion for relief from stay, Mr. Scott, as manager, caused  
13 this instant Chapter 11 filing to again impose an automatic stay to affect the  
14 Property. This is now the second bankruptcy filing to affect this Property within six  
15 (6) months and the second Chapter 11 filing by Eurisko. A prior bankruptcy filing  
16 occurred in 2015 and was undisclosed by Mr. Scott, as manager, in the voluntary  
17 petition.

18 Movant now seeks an order under 11 U.S.C. § 362(d)(4) granting *in rem* relief  
19 from stay that will be binding on the Property for a period of two (2) years from the  
20 recording of such order. In the alternative, Movant seeks an order under 11 U.S.C.  
21 362(d)(1) for cause that grants relief from stay as to this instant Chapter 13  
22 proceeding and this Property. Finally, Movant also requests a waiver of the 14-day  
23 stay of Bankruptcy Rule 4001(a)(3).

24 The Motion will be based on this Notice, the accompanying Motion, the  
25 Memorandum of Points and Authorities in Support, the Declaration of Kevin Terry  
26 in Support, the Index of Exhibits in Support, the Request for Judicial Notice in  
27 Support, the Court’s docket, and any oral argument presented at hearing on the  
28 Motion.

1 PLEASE TAKE FURTHER NOTICE that this Motion is filed pursuant to  
2 Local Bankruptcy Rule 9014-1(f)(2), which states:

3 *B) The use of this alternative procedure in connection with a motion for*  
4 *relief from the automatic stay shall be deemed a waiver of the time*  
5 *limitations contained in 11 U.S.C. § 362(e).*

6 *C) When fewer than twenty-eight (28) days' notice of a hearing is given,*  
7 *no party in interest shall be required to file written opposition to the*  
8 *motion. Opposition, if any, shall be presented at the hearing on the*  
9 *motion. If opposition is presented, or if there is other good cause, the*  
10 *Court may continue the hearing to permit the filing of evidence and*  
11 *briefs.*

12 Date: April 22, 2020

YOUNG & LAZZARINI

13 /s/ Kenrick Young

14 KENRICK YOUNG  
15 Attorney for Creditor  
16 Kenny Kwong  
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